



January 3, 2011

David Chicoine, Ph.D.  
President  
South Dakota State University  
Administrative Lane 0222  
Brookings, South Dakota 57007

**Certified Mail**  
**Return Receipt Requested**  
7008 1300 0002 4255 0276

RE: **Final Program Review Determination**  
**OPE ID:** 00347100  
**PRCN:** 200940827013

Dear Dr. Chicoine:

The U.S. Department of Education's (the Department's) School Participation Team – Denver issued a program review report on June 30, 2010, covering South Dakota State University's (SDSU; the University) administration of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). The review focused solely on SDSU's compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*. SDSU's final response was received on July 30, 2010. Copies of the program review report (and related attachments) and SDSU's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by SDSU upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

**Purpose:**

Final determinations have been made concerning all of the violations and weaknesses identified during the program review and are detailed in the attached FPRD. The purpose of this letter is to notify SDSU of the Final Determinations.

**Record Retention:**

Program records relating to the period covered by this program review must be retained until the later of: resolution of the violations, weakness, and other issues identified during the program

Federal Student Aid, School Participation Team - Denver  
1244 Speer Boulevard, Suite 201, Denver, CO. 80204  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

review or the end of the retention period applicable to Title IV-related records under 34 C.F.R. § 668.24 (e)(1) and (e)(2).

The Department expresses its appreciation for the courtesy and cooperation extended during the review. If SDSU officials have any questions regarding this letter, please contact Mr. James Moore on (215) 656-6495 or Ms. Fran Susman on (303) 844-3682.

Sincerely,

A handwritten signature in dark ink, appearing to read "Harry C. Shriver, Jr.", written in a cursive style.

Harry C. Shriver, Jr.  
Area Case Director

cc: Chief Timothy Lehman, SDSUPD  
Corporal Cora Olson, SDSUPD  
Matt Aschenbrener, Ed.D., Assistant Vice President Student Affairs, SDSU  
South Dakota State Department of Education  
North Central Association of Colleges and Schools  
Education Assistance Corporation

Prepared for:

**South Dakota State University**

---



START HERE  
GO FURTHER  
FEDERAL STUDENT AID™

OPE ID: 00347100

PRCN: 200940827013

Prepared by:

**U.S. Department of Education**

**Federal Student Aid**

**School Participation Team - Denver**

## Final Program Review Determination

January 3, 2011

## Table of Contents

	Page
A. Institutional Information.....	2
B. Scope of Review.....	3
C. Findings and Final Determinations.....	4
Resolved Findings.....	4
Findings with Final Determinations	
Finding 1 – Failure to Properly Classify and Disclose Crime Statistics.....	4
Finding 2 – Inaccurate Reporting of Crime Statistics to the Office of Postsecondary Education.....	6
Finding 3 – Failure to Report Crimes for Non-Campus Buildings/ Property.....	9
Finding 6 – Lack of Adequate Policy Statements.....	11
D. <u>Appendices</u> .....	
Appendix A – Program Review Report	
Appendix B – SDSU’s Response to the Program Review Report	

---

**A. Institutional Information**

South Dakota State University  
Administrative Lane 0222  
Brookings, South Dakota 57007

**Type:** Public

**Highest Level of Offering:** Master's or Doctor's Degrees

**Accrediting Agency:** North Central Association of Colleges and Schools

**Current Student Enrollment:** 12,400 (2008-2009)

**% of Students Receiving Title IV:** 68% (2008-2009)

**Title IV Participation, Per U.S. Department of Education Data Base  
(Postsecondary Education Participants System):**

**2007-2008 Award Year**

Federal Family Education Loan Program	\$ 43,651,856
Federal Pell Grant Program	\$ 7,180,134
Federal Perkins Loan Program	\$ 1,810,711
Federal Work-Study Program	\$ 626,599
Federal Supplemental Education Opportunity Grant Program	\$ 504,214

**FFEL Cohort Default Rate:**

2006 – 1.1%  
2005 – 1.1%  
2004 – 1.0%

**Perkins Default Rate:**

6/30/2007 – 3.6%  
6/30/2006 – 4.4%  
6/30/2005 – 2.2%

South Dakota State University (SDSU; the University) is a land-grant institution that offers more than 200 majors, minors, and specializations in seven academic colleges. The SDSU Police Department (SDSUPD) is comprised of 9 full-time officers and 12 part-time student patrol officers. The SDSUPD provides police and emergency services 24 hours a day, 365 days a year. All SDSUPD officers are sworn law enforcement officials, are authorized to carry weapons and make arrests, and have the same authority as municipal police officers. The SDSUPD's jurisdiction covers the SDSU campus, all SDSU property, and the city of Brookings.

## B. Scope of Review

The U.S. Department of Education (the Department) conducted a campus security program review at South Dakota State University from September 22, 2009 to September 24, 2009. The review was conducted by Mr. Clifton Knight, Ms. Fran Susman, and Mr. James Moore, III.

The objective of the review was to evaluate SDSU's compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*. The *Clery Act* is in Section 485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1092(f). The Department's implementing regulations are at 34 C.F.R. §§ 668.41 and 668.46. SDSU was selected for review from a listing of all institutions of higher education in South Dakota with sworn police departments. The review was not the result of any specific complaint or allegation of non-compliance. The review included an examination of SDSU's catalog and written agreements, police incident reports, arrest records and disciplinary files, as well as policies, practices and procedures related to the *Clery Act*. The review also included a comparison of the campus statistics submitted by SDSU to the Department and reported to students and employees. Staff interviews of institutional officials with *Clery Act* responsibilities were also conducted.

The Department's program review coincided with the Quality Assurance Review (QAR) that the Federal Bureau of Investigation (FBI)'s Criminal Justice Information Service (CJIS) Audit Unit conducted at SDSU. The Department is partnering with the CJIS Audit Unit (CAU) to ensure more accurate crime reporting on America's college campuses. The CAU reviews law enforcement agencies' reporting practices and audits crime statistics that are reported by the states through their participation in the Uniform Crime Reporting (UCR) program.

The results of the QAR are shared with the Department for a comparative analysis of crime statistics reported by participating institutions. The CAU reviewed a sample of 24 incident reports for Group A Offenses and 45 incident reports for Group B Arrests reported to the SDSUPD during calendar year 2008. The CAU identified one under-reported Group A offense, a "Theft from Motor Vehicle," that was reported as a Group B arrest for liquor law violations. Please note that the CAU review examined a later time period than the Clery Act program review and none of the exceptions identified during the QAR involve Clery Act reporting errors. Therefore, these discrepancies do not constitute a violation of the Clery Act, and this FPRD does not require any further action in regard to the CAU's findings.

The Department reviewed a total of 137 campus police incident reports and disciplinary referral reports from calendar year 2007. The file sample was selected on a judgmental basis from a list of all incidents of crime reported to the SDSU Police Department and/or other campus security authorities and from a listing of all arrests and disciplinary referrals for law violations involving alcohol, illegal drugs, illegal usage of legal controlled substances and weapons during 2007. A program review report was issued on June 30, 2010.

**Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning SDSU's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve SDSU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

**C. Findings and Final Determinations**

**Resolved Findings**

Findings #4 and #5

SDSU has taken the corrective actions necessary to resolve Findings #4 and #5 of the program review report. Regarding Finding #4, it appears that SDSU has made the request for the 2009 data on a timely basis. Regarding Finding # 5, SDSU's response asserts that it has developed and implemented a significant system of changes that will improve the accuracy, completeness, readability, and access to the daily crime log. The Department accepts the University's response. Therefore, no further action is required and these findings may be considered closed. (See Appendix B – SDSU's Response to the Program Review Report). Findings requiring further action by SDSU are discussed below.

**Findings with Final Determinations**

The program review report findings requiring further action are summarized below. At the conclusion of each finding is a summary of SDSU's response to the finding, and the Department's final determination for that finding. A copy of the program review report issued on June 30, 2010, is attached as Appendix A.

***Finding #1: Failure to Properly Classify and Disclose Crime Statistics***

***Citation Summary:*** Under the Clery Act and the Department's implementing regulations, participating institutions are required to compile and publish statistics concerning the occurrence on campus of the following reported crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution is required to disclose arrests and disciplinary actions related to certain violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. § 668.46(c)(1). The Department's regulations require that, for Clery Act reporting purposes, participating institutions must compile crime statistics using the definitions in 34 C.F.R. Part 668, Subpart D, Appendix A.

***Noncompliance Summary:*** SDSU failed to properly classify several reported incidents in accordance with the requirements of the Clery Act and the Department's regulations. Specifically, various cases were improperly classified as follows:

- Case #120400 was improperly classified as a "Simple Assault-Domestic Violence" and should have been classified as an "Aggravated Assault"
- Case #120265 was improperly classified as "Criminal Entry into a Motor Vehicle" and should have been classified as "Motor Vehicle Theft"
- Cases #120110, 120123, 120525, 120536, and 120536 were improperly coded and should have been classified as "Burglaries-No Force"

**Required Action Summary:** SDSU may provide any additional documentation that might change the reportable crime classifications on the crimes discussed above for consideration by the review team. Otherwise, SDSU must correct all errors in its crime statistics. Additionally, SDSU must re-examine and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the police or a campus security authority are classified properly and included in the campus security report's statistical disclosures. A copy of all new or revised policies and procedures must be submitted with the University's response.

**SDSU's Response:** In its response, SDSU agreed with the assessment of the review team regarding the classifications of the seven cases. SDSU further stated that once it received the Final Program Review Report, it would make the necessary changes to the Department's online campus crime statistics database and post corrected information to the SDSU Web site. SDSU provided a copy of a proposed revised 2007 campus security statistics disclosure (SDSU's Response to the Program Review Report – Item 2). SDSU also provided a copy of revised policies and procedures (SDSU's Response to the Program Review Report – Items 3 and 4).

**Final Determination:** SDSU's proposed revised 2007 campus security statistics (SDSU's Response to the Program Review Report – Item 2) do not appear to include the reclassified cases listed in this finding. SDSU must revise its 2007 campus security statistics, both on the Department's online campus crime statistics database and on the SDSU Web site, by the addition of the one aggravated assault (Case #120400), one motor vehicle theft (Case #120265), and five burglaries (Cases #120110, 120123, 120525, 120536, and 120536). After the changes are made, SDSU must provide to the Department either (1) copies of the revised reports; or (2) the link to the SDSU Web site and verification that changes were made to the Department's online database. The Final Determination for Finding #2 below includes a further discussion of the combined statistics from Findings #1 and #2.

---

SDSU provided a copy of its revised policies and procedures and identified various training initiatives to ensure that officers improve classification and disclosure. This part of the finding may be considered closed.



**Finding #2:** *Inaccurate Reporting of Crime Statistics to the Office of Postsecondary Education*

**Citation Summary:** *All institutions participating in the federal student financial aid programs under Title IV of the HEA are required to make available statistical information relating to certain reported crimes, as well as statistics relating to arrests and/or campus disciplinary referrals for alcohol, drug and illegal weapons possession violations. 34 C.F.R. § 668.46(a), 34 C.F.R. § 668.46(c)(1) – (c)(4)(7)*

**Noncompliance Summary:** *SDSU failed to disclose crime statistics for the 2007 calendar year in the following categories*

- *Aggravated Assault (reported two on campus property but the audit trail revealed three);*
- *Burglary (reported 3 in residential facilities but the audit trail revealed 2);*
- *Motor Vehicle Theft (reported 2 on public property and 0 on campus property but the audit trail revealed 1 on campus property and 0 on public property);*
- *Arson (failed to report 1 on non-campus property on the SDSU Web site only);*
- *Drug Law Violation Arrests (reported 28 on campus property of which 25 were in residential facilities but the audit trail revealed 19 on campus property of which 10 were in residential facilities);*
- *Liquor Law Violation Arrests (reported 239 on campus property of which 140 were in residential facilities, 3 on non-campus property, and 60 on public property, but the audit trail revealed 185 on campus property of which 70 were in residential facilities, 1 on non-campus property, and 35 on public property); and*
- *Disciplinary Referral Actions for Liquor Law Violations (reported 397 but the audit trail revealed 407).*

*In addition, the headings for the crime statistics on the SDSU Web site were not in conformity with regulatory requirements. Specifically, the reports included a heading for "Forcible Sex Offenses (Rape)" but failed to include a heading for "Sex Offenses – Non-Forcible".*

**Required Action Summary:** *SDSU is required to re-examine and revise its crime statistics. SDSU may provide any additional documentation that might change the reportable crime classifications on the crimes discussed. If SDSU concurs that its published statistics are not accurate, the University must correct its 2007 campus crime statistics on its Web site and in the Department's on-line database. Additionally, SDSU will be required to distribute the modified campus security report to all students and employees.*

---

*Finally, SDSU must review and revise its policies and procedures for preparing its campus security report to ensure that crime statistics are properly classified and disclosed on all subsequent campus security reports.*

**SDSU's Response:** SDSU, in its response, agreed with the assessment of the review team regarding the inaccurate reporting of crime statistics. Based on preliminary numbers discussed at the exit conference with the reviewers, SDSU adjusted its 2007 statistical disclosures. The changes were made to the 2007 data in the 2009 campus crime data submitted to the Department's online database on October 12, 2009 (SDSU's Response to the Program Review Report – Item 5). SDSU also included in the revised report the addition of the "Sex Offenses – Non-Forcible Crimes" heading. These changes were also made to the crime statistics on the SDSU Web site (SDSU's Response to the Program Review Report – Item 6) and the information regarding the availability of the report was distributed to all students and staff in late September 2009 as part of the annual distribution of campus crime information.

SDSU has created a Clery Report Review Committee (CRRC) to enhance and formalize the reporting procedures. The SDSU campus security policy and procedure statements were reviewed and updated as well (SDSU's Response to the Program Review – Item 3).

**Final Determination:** Although SDSU made some adjustments to its 2007 campus security statistics based on preliminary information provided during the exit conference, additional adjustments must be made based on the information in the program review report. SDSU must revise its 2007 campus security statistics, both on the Department's on-line campus security database and on the SDSU Web site as follows. The changes discussed in the chart reflect the determinations in Findings #1, #2 and #3.

Category	Changes Made by SDSU October 12, 2009	Changes Required	Corrected Numbers
Aggravated Assault	SDSU corrected the numbers of aggravated assaults on campus from 2 to 4 and the number of aggravated assaults in the residential category from 2 to 1 based on preliminary information from the exit conference.	SDSU must revise the reported number of aggravated assaults on campus from 4 to 3 based on Findings #1 and #2 and the number of aggravated assaults in residence halls from 1 to 2 based on Finding #1.	3 On Campus <sup>1</sup> (2 Residence Halls)  1 Non-Campus  0 Public Property
Burglary	SDSU corrected the numbers of burglaries in the on campus and residential categories from 3 to 2 based on Finding #2 and added 4 additional non-campus burglaries from Finding #3.	SDSU must revise the reported number of burglaries on campus from 7 to 12 and the number of burglaries in residence halls from 2 to 4	12 On Campus (4 Residence Halls)  4 Non-campus  0 Public Property
Motor Vehicle	SDSU corrected the	SDSU must revise the	2 On Campus <sup>2</sup>

<sup>1</sup> Case Numbers 121061, 120400 (residential), 120783/120913 (same assault – residential)

Theft	numbers of motor vehicle thefts on campus from 0 to 1 and on public property from 2 to 0 from Finding #2	number of motor vehicle thefts on campus from 1 to 2 from Finding #1	(0 Residential) 0 Non-Campus 0 Public Property
Arson	No changes made.	SDSU must revise the number of non-campus arsons from 0 to 1 on its Web site report based on Finding #2; SDSU correctly reported the 1 arson in the non-campus category to the Department's on-line database.	3 On Campus (2 Residential) 1 Non-Campus 0 Public Property
Drug Law (Arrests)	SDSU added 21 additional non-campus drug law arrests based on Finding #3.	SDSU must revise the number of on campus drug law arrests numbers from 23 to 19 and the number of drug law arrests in the residential category from 11 to 10 based on Finding #2.	19 On Campus (10 Residential) 21 Non-Campus 3 Public Property
Liquor Law (Arrests)	SDSU added 14 additional non-campus liquor law arrests from Finding #3.	SDSU must revise the number of on campus liquor law arrests from 239 to 185, the number of liquor law arrests in the residential category from 140 to 70, and the number of arrests in the public property category from 60 to 35 based on Finding #2.	185 On Campus (70 Residential) 15 Non-Campus 35 Public Property
Liquor Law (Disciplinary)	SDSU changed the number of disciplinary actions based on on-campus liquor law violations from 397 to 407 based on Finding #2.	No additional changes required.	407 On Campus (407 Residential) 0 Non-Campus 0 Public Property

SDSU must make corrections to its calendar year 2007 crime statistics in accordance with the above chart. All questions about the required corrections should be addressed to the review team. The establishment of the CRRC should be an important part of SDSU's corrective action plan and future success if it can both bring together key officials across the University while ensuring that primary stakeholders also have the necessary resources

<sup>2</sup> Case Numbers 120994, 120265

and autonomy to meet their essential obligations. SDSU also provided a copy of its revised policies and procedures to ensure that crime statistics are properly classified and disclosed on subsequent reports. The policy revision aspects of this finding may be considered closed.

**Finding #3: Failure to Report Crimes for Non-Campus Buildings/Property**

**Citation Summary:** An institution must include within its annual campus security report reportable crimes that occur in certain geographical locations associated with the institution. One of those areas is "non-campus buildings or property." 34 C.F.R. § 668.46(c)(4)

A non-campus building or property is defined as "any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution." 34 C.F.R. § 668.46(a)

**Noncompliance Summary:** SDSU failed to include crime statistics for certain non-campus sites in its campus security report for 2007. Specifically, the review team identified seven properties that are listed as additional locations on SDSU's Eligibility and Certification Approval Report for which crimes were not reported:

OPE ID	Name of Location	Address
00347102	SDPURC	2205 Career Avenue, Sioux Falls, SD
00347103	Capital University Center	809 East Dakota Avenue, Pierre, SD
00347104	West River Graduate Center	501 E. Saint Joseph Street, Rapid City, SD
00347105	West River Program Site	1011 11 <sup>th</sup> Street, Rapid City, SD
00347107	College of Nursing RN Upward Mobility	225 Rotunda Lane, Brookings, SD
00347109	Gillette	525 West Lake Way Road, Gillette, WY
00347110	Mission	100 East Denver Drive, Mission, SD

**Required Action Summary:** SDSU is required to obtain and report crime statistics for any locations that meet the definition of a non-campus building or property in 34 C.F.R. § 668.46(a). If any or all of the locations met the definition of a non-campus building for the calendar years 2006, 2007, and/or 2008, SDSU must attempt to obtain statistics of incidents of crimes reported to local law enforcement as occurring at these locations and

*disclose such statistics in the manner required by the Clery Act. Specifically, SDSU is required to correct its 2007 campus crime statistics on its Web site and in the Department's online database. SDSU will be required to distribute the modified campus security report to all students and employees.*

*SDSU must review and revise its policies and procedures for preparing its campus security report to ensure that crime statistics are gathered and reported for non-campus properties.*

**SDSU's Response:** SDSU stated in its response that it reviewed all non-campus instructional sites for 2006, 2007, and 2008. SDSU confirmed that five of the seven sites listed in the program review report were sites for which Clery statistics should have been reported. One of the sites, West River Graduate Center (00347104) was listed with an incorrect address on the Eligibility and Certification Approval Report (ECAR). SDSU stated that the College of Nursing (00347107) is located on the main campus and statistics for this site are included in the SDSU on-campus statistics. SDSU further stated that the Mission site (00347110) has not been an instructional site for SDSU since 2004. SDSU confirmed that statistics for the remaining five locations were gathered from the appropriate police departments and the statistics were updated in the October 2009 submission to the Department of Education. In addition, SDSU provided copies of the revised statistics that were posted to its website (SDSU's Response to the Program Review Report – Item 6) and the distribution notice that was sent to students and staff regarding the availability of the report.

As reported in Finding #2, SDSU developed a CRRC. According to SDSU, each year, prior to the CRRC's February meeting all of the SDSU non-campus locations will be identified by the Registrar's Office. This information will be shared at the February CRRC meeting. (SDSU's Response to the Program Review Report – Item 3 – Revised SDSU CSR – Policy and Procedure Statements, 2010, page 3 for the policy revision.) Letters will be sent to the appropriate local police departments asking for the appropriate statistics. An audit trail of communication between each local police department and the University will be maintained.

**Final Determination:** SDSU is required to review the additional locations that are currently listed on the ECAR and update the information on its locations via the Electronic Application to Participate in the Title IV Programs (EAPP). Specifically, SDSU must update the address for the West River Graduate Center (OPE 00347104). See Finding #2 above for information on the changes needed to campus crime statistics.

---

SDSU provided a copy of its revised policies and procedures to ensure the crime statistics are gathered and reported for non-campus properties. This part of the finding may be considered closed.



**Finding #6: Lack of Adequate Policy Statements**

**Citation Summary:** The Clery Act and the Department's regulations require institutions to include several policy statements in their campus security reports. These disclosures are intended to inform the campus community about the institution's security policies, procedures, programs and the availability of resources and channels to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. § 485(f) of the HEA; 34 C.F.R. § 668.46 (b)(2)-(b)(12)

**Noncompliance Summary:** SDSU's annual campus security report failed to provide all the policy statements required by the Department's regulations. SDSU publishes its annual campus security report on the SDSU Web site and also makes available hard copies of the report for any student or employee who requests them. Our review of the current policies and procedures both on the SDSU Web site and in the printed copy revealed discrepancies in four areas including listing officials to whom students and employees should report potential crimes, providing a list of programs regarding campus security procedures and practices, providing a list of programs about the prevention of crimes, and a description of any drug or alcohol-abuse education programs.

**Required Action Summary:** SDSU must revise its annual campus security report to include all required statements of campus security policy, procedures, and programming. SDSU must provide a copy of the revised document with its response. Once the review team has evaluated the statistical and policy changes required in this program review report, the Department will advise SDSU to distribute the modified annual campus security report to all students and employees.

**SDSU's Response:** SDSU, in its response, agreed that the annual security report did not clearly identify its programming efforts in the areas of campus security procedures and practices, prevention of crime, and drug and alcohol-abuse education programs. SDSU also stated that it would maintain a web-based list of officials responsible for receiving reports of potential crimes, and further, that the list would include the name, title, location, and phone number of each person, in accordance with the regulations. SDSU provided a copy of a draft '2010 SDSU Annual Security Report'. (SDSU's Response to the Program Review Report – Item 3)

**Final Determination:** SDSU is required to post the revised '2010 SDSU Annual Security Report' to its Web site and distribute it to all enrolled students and staff. The notification must reference that the University has revised its crime statistics. In addition, SDSU is required to provide a hard copy of the report to any prospective student, enrolled student, or staff who may request a copy. Once the revised report is posted to the SDSU Web site, SDSU must provide evidence of its distribution efforts to the review team via regular U.S. mail or e-mail.